

2006 No. (W.)

NATIONAL HEALTH SERVICE, WALES

**The General Dental Services and Personal Dental Services
Transitional and Consequential Provisions (Wales) Order 2006**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further transitional and consequential provision relating to—

- (a) the new arrangements from 1 April 2006 for the provision of general dental services under section 28L of the National Health Service Act 1977 (“the 1977 Act”) in respect of general dental services contracts entered into under section 28K of that Act (as inserted by section 172(1) of the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”));
- (b) the abolition on 1 April 2006 of pilot schemes for personal dental services by section 178 of the 2003 Act and their replacement from 1 April 2006 with permanent arrangements for personal dental services under section 28C of the 1977 Act (personal medical or dental services); and
- (c) the introduction of the new arrangements for primary dental services from 1 April 2006 and the transfer of functions to the NHS Business Services Authority.

Part 2 of the Order makes transitional provision in respect of general dental services provided before 1 April 2006. Article 4 makes provision in respect of applications made before 1 April 2006 for general dental services to be treated as applications for services under a General Dental Services Contract (“GDS contract”) or Personal Dental Services Agreement (“PDS agreement”). Articles 5 and 6 make provision in respect of complaints pending on or made after 1 April 2006. Articles 7 and 10 to 15 make transitional provision in respect of patient information leaflets, emergency dental service, repair and replacement of restorations, service of documents, violent patients, referrals and inability to complete treatment. Articles 8 and 9 make provision in respect of payments and recovery of payments relating to periods before 1 April 2006.

Part 3 of the Order makes transitional provision in respect of personal dental services provided before 1 April 2006. Article 20 makes provision in respect of applications made before 1 April 2006 for personal dental services to be treated as applications for services under a PDS agreement or a GDS contract. Articles 21 and 22 make provision in respect of complaints pending on or made after 1 April 2006. Articles 23 and 26 to 30 make transitional provision in respect of patient information leaflets, violent patients, repair and restorations, provision of information, records and disputes. Articles 24 and 25 make provision in respect of recovery of payments and the remuneration of pilot scheme providers.

Part 4 makes transitional arrangements in relation to the National Health Service (Service Committees and Tribunals) Regulations 1992 which are also amended in Schedule 1.

Part 5 makes transitional provisions in relation to the introduction of new arrangements for primary dental services from 1 April 2006 and the transfer of functions to the NHS Business Services Authority.

Part 6 and the Schedules make miscellaneous, minor and consequential amendments and revocations.

A Regulatory Appraisal has been prepared in respect of the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006 (S.I. 2006/489 (W.58)) and the National Health (General Dental Service Contracts) (Wales) Regulations 2006 (S.I. 2006/490 (W.59)) and copies have been placed in the library of the National Assembly for Wales.

2006 No. (W.)

NATIONAL HEALTH SERVICE, WALES

**The General Dental Services and Personal Dental Services
Transitional and Consequential Provisions (Wales) Order 2006**

Made - - - - *28 March 2006*
Coming into force - - *1 April 2006*

The National Assembly for Wales makes the following Order in exercise of the powers conferred by sections 173, 195, 200 and 201 of the Health and Social Care (Community Health and Standards) Act 2003⁽¹⁾.

PART 1
GENERAL

Title, commencement and application

1.—(1) The title of this Order is the General Dental Services and Personal Dental Services Transitional and Consequential Provisions (Wales) Order 2006 which comes into force on 1 April 2006.

(2) This Order applies in relation to Wales.

Interpretation

2.—(1) In this Order—

“the 1977 Act” means the National Health Service Act 1977⁽²⁾;

“the 1992 Regulations” means the National Health Service (General Dental Services) Regulations 1992⁽³⁾;

“the Board” means the Dental Practice Board;

“capitation arrangement” means an arrangement made under paragraph 5 of Schedule 1 to the 1992 Regulations;

“care and treatment” means—

- (a) all proper and necessary care which a dentist usually undertakes for a patient and which the patient is willing to undergo, including advice, planning of treatment and preventive care; and
- (b) treatment;

⁽¹⁾ 2003 c.43.
⁽²⁾ 1977 c.49.
⁽³⁾ S.I. 1992/661.

“dental list” means the list of dental practitioners that had effect on 31 March 2006 who undertook to provide general dental services for persons in its area kept by a Local Health Board under regulations made under section 36(1)(a) of the 1977 Act;

“GDS Contracts Regulations” means the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(1);

“general dental services contract” means a contract under section 28K of the 1977 Act (general dental services contracts)(2);

“NHS Business Services Authority” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(3);

“NHS Charges Regulations” means the National Health Service (Dental Charges) (Wales) Regulations 2006(4);

“PDS Agreements Regulations” means the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006(5);

“PDS Directions” means the Directions to Health Authorities concerning the implementation of pilot schemes (personal dental services)(6);

“personal dental services agreement” means an agreement for primary dental services under section 28C of the 1977 Act (personal medical or dental services)(7);

“pilot scheme agreement” means an agreement made under Part 1 of the National Health Service (Primary Care) Act 1997(8);

“pilot scheme provider” means the person or persons, other than a Local Health Board, who provide personal dental services under a pilot scheme agreement and who is a party or are parties to that agreement;

“the Transitional Order” means the General Dental Services and Personal Dental Services Transitional Provisions (Wales) Order 2006(9); and

“SDR” means the Statement of Dental Remuneration determined and published by the National Assembly for Wales under regulation 19 of the 1992 Regulations, as that statement had effect on 31 March 2006.

(2) In this Order, the use of the term “it” in relation to the contractor will be deemed to include a reference to a contractor that is an individual dental practitioner or two or more individuals practising in partnership and related expressions will be construed accordingly.

PART 2

TRANSITIONAL PROVISIONS IN RESPECT OF GENERAL DENTAL SERVICES PROVIDED BEFORE 1 APRIL 2006

Interpretation of Part 2

3. For the purposes of this Part—

“relevant dental practitioner” means a dental practitioner who enters into—

(1) S.I. 2006/490 (W.59).

(2) Section 28K was inserted into the 1977 Act by section 172 of the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”).

(3) S.I. 2005/2414.

(4) S.I. 2006/491 (W.60).

(5) S.I. 2006/489 (W.58).

(6) The Directions were made in August 1998.

(7) Section 28C was inserted into the 1977 Act by section 21(1) of the National Health Service (Primary Care) Act 1997 (c.46).

(8) 1997 c.47.

(9) S.I. 2006/488 (W.57).

- (a) a general dental services contract as a consequence of article 4 or 5 of the Transitional Order; or
- (b) a personal dental services agreement as a consequence of article 15, 16 or 17 of the Transitional Order; and

“succeeding contractor” means the contractor which is a party to—

- (a) the general dental services contract which—
 - (i) the relevant dental practitioner has entered into as an individual or as one of two or more individuals practising in partnership, or
 - (ii) has been entered into by a dental corporation of which the relevant dental practitioner is a director, chief executive or secretary; or
- (b) the personal dental services agreement which the relevant dental practitioner has entered into as a consequence of article 15, 16 or 17 of the Transitional Order.

Applications for general dental services

4. Where, before 1 April 2006—

- (a) a person has made an application to a relevant dental practitioner to receive general dental services⁽¹⁾ in accordance with regulation 2(1) of the National Health Service (Choice of Dental Practitioner) Regulations 1998⁽²⁾; and
- (b) that application has not been finally determined before that date,

that application will be treated as a request made to the succeeding contractor for services under the term of the contract giving effect to paragraph 1 of Schedule 3 to the GDS Contracts Regulations or under the term of the agreement giving effect to paragraph 1 of Schedule 3 to the PDS Agreements Regulations.

Investigation of outstanding complaints

5.—(1) Subject to paragraph (2), where before 1 April 2006—

- (a) a complaint had been made under paragraph 31A of Schedule 1 to the 1992 Regulations⁽³⁾ by or on behalf of a patient or former patient of a relevant dental practitioner; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 31A of that Schedule had not concluded,

that complaint must, on or after 1 April 2006, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 31A of Schedule 1 to the 1992 Regulations had not been revoked and continued to have effect as in force on 31 March 2006.

(2) In a case where there is no succeeding contractor the complaint must be investigated by one of the persons specified in paragraph (3) as if paragraph 31A of Schedule 1 to the 1992 Regulations had not been revoked and continued to have effect as in force on 31 March 2006.

(3) The persons referred to in paragraph (2) are—

- (a) subject to paragraph (b), the person or persons who was or were the former partner or partners of the dental practitioner who provided care and treatment under a continuing care or capitation arrangement in respect of the complainant, if he, she or they meet the requirements in paragraph (4);
- (b) in the case where the person or persons specified in paragraph (a) satisfy the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant that, having regard to the nature of

⁽¹⁾ “General dental services” has the meaning given to it in section 35(1A) of the 1977 Act.

⁽²⁾ S.I. 1998/2222.

⁽³⁾ Paragraph 31A was inserted into the 1992 Regulations by S.I. 1996/704.

the complaint, it would not be appropriate for the complaint to be investigated by him, her or them, that Local Health Board; or

(c) in any other case, the Local Health Board on whose dental list the dental practitioner was included for the purposes of providing general dental services to the complainant.

(4) The requirements referred to in paragraph (3)(a) are that the former partner or partners—

(a) has or have entered into a general dental services contract, as an individual dental practitioner or as one of two or more individuals practising in partnership, with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant;

(b) is a director, chief executive or secretary of the dental corporation which has entered into a general dental services contract with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant;

(c) has or have entered into a personal dental services agreement with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant; or

(d) is a director, chief executive or secretary of the qualifying body which has entered into a personal dental services agreement with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant.

(5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one contractor, the contractors concerned will—

(a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and

(b) if they are unable to reach agreement, refer the matter to the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant and that Local Health Board will investigate the complaint itself.

(6) Where, under this article, a complaint falls to be investigated by a Local Health Board the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners⁽¹⁾.

Complaints relating to general dental services made after 31 March 2006

6.—(1) Subject to paragraph (2), the complaints procedure established and operated by a succeeding contractor under the term of its—

(a) general dental services contract which gives effect to paragraph 47 of Schedule 3 to the GDS Contracts Regulations; or

(b) personal dental services agreement which gives effect to paragraph 47 of Schedule 3 to the PDS Agreements Regulations,

will apply to any complaint which a patient or former patient of the relevant dental practitioner to whom it is a succeeding contractor could have made (but did not make) on or before 31 March 2006 under paragraph 31A of Schedule 1 to the 1992 Regulations as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the contract or, as the case may be, the agreement.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Local Health Board in whose area the general dental services were provided.

⁽¹⁾ These directions were made in March 2003.

(3) Where a complaint falls to be investigated by a Local Health Board as a consequence of paragraph (2), the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners.

Patient information leaflet

7.—(1) This article applies where a relevant dental practitioner had compiled a patient information leaflet which met the requirements of paragraph 32 of Schedule 1 and Schedule 5 to the 1992 Regulations on 31 March 2006 and that leaflet was, on that date, available to patients.

(2) Subject to paragraph (3), the patient information leaflet made available to patients on or after 1 April 2006 by the succeeding contractor need not, until 1 August 2006, include all the information specified in the terms of—

- (a) the general dental services contract which give effect to Schedule 4 to the GDS Contracts Regulations; or
- (b) the personal dental services agreement which give effect to Schedule 4 to the PDS Agreements Regulations.

(3) The succeeding contractor must from the date of the commencement of services under the general dental services contract or the personal dental services agreement make available to patients in written form the information specified in paragraph (4) together with the patient information leaflet referred to in paragraph (1).

(4) The information referred to in paragraph (3) is information regarding—

- (a) the services available under the general dental services contract or the personal dental services agreement;
- (b) the normal surgery days and hours of the practice;
- (c) the arrangements for dental services for the days and hours that fall outside normal surgery days and hours (whether or not provided by the contractor) and how the patient may contact such services;
- (d) if the services in sub-paragraph (c) are not provided by the contractor, the fact that the Local Health Board referred to in sub-paragraph (g) is responsible for commissioning the services;
- (e) how patients may make a complaint or comment on the provision of services;
- (f) the telephone number of NHS Direct and details of NHS Direct online; and
- (g) the name, postal and website address and telephone number of the Local Health Board which is a party to the contract or agreement and from whom details of primary dental services in the area may be obtained.

Recovery of Overpayments

8.—(1) Where, before 1 April 2006, a dental practitioner had admitted an overpayment drawn to its attention by a Local Health Board or the Board under regulation 22 of the 1992 Regulations (recovery of overpayments) but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 1 April 2006, will notwithstanding the revocation of the 1992 Regulations continue to be recoverable by that Local Health Board and will be treated as a debt owed by that dental practitioner to that Local Health Board.

(2) Notwithstanding the revocation of the 1992 Regulations, where a Local Health Board considers that a payment has been made to a dental practitioner under the SDR when it was not due and that alleged overpayment has not been drawn to the dental practitioner's attention by the Board or the Local Health Board before 1 April 2006, that Local Health Board may draw the overpayment to the attention of the dental practitioner and—

- (a) where the overpayment is admitted by him or her, the Local Health Board may recover the amount overpaid from him or her as a civil debt; and
- (b) where the overpayment is not admitted by him or her—

- (i) the arrangements for appeals referred to in regulation 22(1)(b) of the 1992 Regulations as in force on 31 March 2006, as those arrangements had effect on 31 March 2006, will apply,
- (ii) if he or she does not appeal or appeals unsuccessfully, the Local Health Board may recover the amount of the civil debt.

(3) Where, before 1 April 2006, a Local Health Board has drawn a possible overpayment under the SDR to the attention of a dental practitioner, and the overpayment has not been admitted by him or her, then notwithstanding the revocation of the 1992 Regulations—

- (a) the arrangements for appeals referred in regulation 22(1)(b) of the 1992 Regulations as in force on 31 March 2006, as those arrangements had effect on 31 March 2006, will apply; and
- (b) if he or she has not appealed or does not appeal, or is unsuccessful in an appeal, the Local Health Board may recover the amount as a civil debt.

Remuneration of Dentists

9.—(1) Notwithstanding the revocation of the 1992 Regulations, claims may still be made for payments under the SDR by a dental practitioner who may be entitled to such a payment (claims by virtue of article 38 are to be made to the NHS Business Services Authority), provided that the claim is made within any period stipulated in the SDR as being the period during which a claim for the payment is to be made.

(2) If a claim is made outside the stipulated period provided for in the SDR, the NHS Business Services Authority may extend that period for up to six months from the date on which the circumstances which gave rise to the claim first arose.

(3) Notwithstanding the revocation of the 1992 Regulations, as regards any claim for payment under the SDR which is made within the period stipulated in the SDR (whether before 1 April 2006 or by virtue of paragraph (1)) or within an extended period as provided for in paragraph (2), Parts 4, 5 and 5A of those Regulations will continue to apply and have effect as they were in force on 31 March 2006 in respect of—

- (a) the approval and making of the payments;
- (b) the recovery of payments and overpayments; and
- (c) the payments in consequence of suspension or successful appeal,

in relation to general dental services provided before 1 April 2006.

Emergency dental services

10. Notwithstanding the revocation of the 1992 Regulations, where arrangements made under regulation 14 of the 1992 Regulations are in place immediately before 1 April 2006, those arrangements will continue to subsist until terminated by the Local Health Board or the dentist in accordance with the terms of those arrangements.

Service of documents

11. Where any notice or other document is required to be given or sent as a consequence of regulation 32 of the 1992 Regulations⁽¹⁾ and has not been given or sent before 1 April 2006, notwithstanding the revocation of the 1992 Regulations, regulation 32 of those Regulations will continue to have effect as in force on 31 March 2006 in respect of such a notice or document.

(1) Regulation 32 was substituted by regulation 6 of S.I. 1993/2209.

Repair and replacement of restorations

12. Where, on or before 31 March 2006, a relevant dental practitioner has provided a restoration and that restoration requires repair or replacement which he or she would have been required to repair or replace under paragraph 7 of Schedule 1 to the 1992 Regulations, the succeeding contractor will repair or replace the restoration in accordance with the terms of the contract giving effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations or the terms of the agreement giving effect to paragraph 12 of Schedule 3 to the PDS Agreements Regulations.

Violent patients

13.—(1) Where—

- (a) a person commits an act of violence in the circumstances specified in paragraph 11A(1)(a) of Schedule 1 to the 1992 Regulations⁽¹⁾; and
- (b) the Local Health Board has not informed the person concerned on or before 31 March 2006 that the dentist no longer wishes to provide services to that person,

notwithstanding the revocation of the 1992 Regulations and subject to paragraph (2), paragraph 11A(4) of that Schedule will continue to have effect as in force on 31 March 2006 in respect of the person concerned.

(2) The notification given in accordance with paragraph 11A(4) of Schedule 1 to the 1992 Regulations on or after 1 April 2006 will be treated as though it were a notification that the succeeding contractor does not wish to provide care and treatment to the person concerned under the general dental services contract or the personal dental services agreement.

Referral to another dentist, to a hospital or other service and treatment on referral

14.—(1) Where a patient has been referred on or before 31 March 2006 in accordance with paragraph 12(1) of Schedule 1 to the 1992 Regulations, and—

- (a) the details specified in sub-paragraph (2) of that paragraph have not been forwarded on or before 31 March 2006; or
- (b) the dentist has not indicated in his or her claim for remuneration that the patient has been referred,

notwithstanding the revocation of the 1992 Regulations, paragraph 12(2) of Schedule 1 to those Regulations will continue to have effect as in force on 31 March 2006 in respect of the referral of that patient.

(2) Where, on or before 31 March 2006, a relevant dental practitioner has provided a restoration in the course of treatment on referral and that restoration requires repair or replacement which he or she would have been required to repair or replace under paragraph 13 of Schedule 1 to the 1992 Regulations, the succeeding contractor will repair or replace the restoration in accordance with the terms of the contract giving effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations or the terms of the agreement giving effect to paragraph 12 of Schedule 3 to the PDS Agreement Regulations.

Inability to complete treatment

15.—(1) Where a dentist—

- (a) owing to any cause beyond his or her control, is unable to complete any care and treatment which has been commenced under a continuing care arrangement or a capitation arrangement or treatment on referral on or before 31 March 2006; and
- (b) has not notified the Board on or before 31 March 2006 in accordance with paragraph 14 of Schedule 1 to the 1992 Regulations,

(1) Paragraph 11A was inserted into Schedule 1 to the 1992 Regulations by S.I 1998/1648.

notwithstanding the revocation of the 1992 Regulations, paragraph 14 of Schedule 1 to those Regulations will, subject to paragraph (2), continue to have effect as in force on 31 March 2006 in respect of that incomplete care and treatment.

(2) Where paragraph (1) applies, on or after 1 April 2006, paragraph 14 of Schedule 1 to the 1992 Regulations will be read as if the reference to the Board in that paragraph were a reference to the NHS Business Services Authority.

Care and Treatment summaries

16. Where, on or before 31 March 2006, a patient requested a summary of the, care and treatment in accordance with paragraph 15 of Schedule 1 to the 1992 Regulations and the dentist has not provided that summary before 1 April 2006, notwithstanding the revocation of the 1992 Regulations, paragraph 15 of Schedule 1 to those Regulations will continue to have effect as in force on 31 March 2006 in respect of that request.

Occasional treatment

17.—(1) Where a dentist—

- (a) due to any cause beyond his or her control, is unable to complete a course of occasional treatment which he or she has commenced on or before 31 March 2006; and
- (b) has not notified the Board on or before 31 March 2006 in accordance with paragraph 17(3) of Schedule 1 to the 1992 Regulations⁽¹⁾,

notwithstanding the revocation of the 1992 Regulations, paragraph 17(3) of Schedule 1 to those Regulations will, subject to paragraph (2), continue to have effect as in force on 31 March 2006 in respect of that incomplete occasional treatment.

(2) Where paragraph (1) applies, on or after 1 April 2006, paragraph 17(3) of Schedule 1 to the 1992 Regulations will be read as if the reference to the Board were a reference to the NHS Business Services Authority.

(3) Where—

- (a) on or before 31 March 2006, a relevant dental practitioner has provided conservative treatment of permanent or retained deciduous teeth by way of any filling or root filling; and
- (b) on or after 1 April 2006 that filling or root filling requires repair or replacement which he or she would have been required to repair or replace under paragraph 17 of Schedule 1 to the 1992 Regulations,

the succeeding contractor will repair or replace the filling or root filling in accordance with the terms of the contract giving effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations or the terms of the agreement giving effect to paragraph 12 of Schedule 3 to the PDS Agreements Regulations.

(4) Where, on or before 31 March 2006—

- (a) a patient has been referred in respect of occasional treatment in accordance with paragraph 18(1) of Schedule 1 to the 1992 Regulations; and
- (b) the dentist has not complied with the requirements specified in sub-paragraph (2) of that paragraph,

notwithstanding the revocation of the 1992 Regulations, paragraph 18(2) and (3) of Schedule 1 to those Regulations will continue to have effect as in force on 31 March 2006 in respect of the referral of that patient.

(1) Paragraph 17 of Schedule 1 to the 1992 Regulations was substituted by S.I. 2003/138.

Records

18. Notwithstanding the revocation of the 1992 Regulations, a dentist will continue to keep a record in respect of the matters referred to in paragraph 25(1) of Schedule 1 to the 1992 Regulations (records) and that paragraph and paragraph 41 of that Schedule—

- (a) subject to paragraph (b), will continue to have effect as in force on 31 March 2006 to such a record until 1 April 2008; and
- (b) will have effect as if the reference to the Board in those paragraphs were a reference to the NHS Business Services Authority.

PART 3

TRANSITIONAL PROVISIONS IN RESPECT OF PERSONAL DENTAL SERVICES PROVIDED BEFORE 1 APRIL 2006

Interpretation of Part 3

19. In this Part—

“relevant pilot scheme provider” means a person or persons, other than a Local Health Board, who provided personal dental services under a pilot scheme agreement and who was a party or parties to that agreement; and

“succeeding contractor” means the contractor which is a party to—

- (a) the general dental services contract which the relevant pilot scheme provider has entered into as a consequence of article 6 of the Transitional Order; or
- (b) the personal dental services agreement which the relevant pilot scheme provider has entered into as a consequence of article 14 of the Transitional Order.

Applications for personal dental services

20. Where, before 1 April 2006—

- (a) a person has made an application to a relevant dental practitioner to receive personal dental services⁽¹⁾ in accordance with regulation 2(1) of the National Health Service (Choice of Dental Practitioner) Regulations 1998⁽²⁾; and
- (b) that application has not been finally determined before that date,

that application will be treated as a request made to the succeeding contractor for services under the term of the agreement giving effect to paragraph 1 of Schedule 3 to the PDS Agreements Regulations or under the term of the contract giving effect to paragraph 1 of Schedule 3 to the GDS Contracts Regulations.

Investigation of outstanding complaints

21.—(1) Subject to paragraph (2), where before 1 April 2006 a complaint had been made in accordance with the provisions in the pilot scheme agreement which give effect to the procedure set out in the PDS Directions, that complaint must, from 1 April 2006 be investigated or continue to be investigated by the succeeding contractor in accordance with the terms of the pilot scheme agreement as it had effect on 31 March 2006.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Local Health Board in whose area the personal dental services were provided.

⁽¹⁾ “Personal dental services” has the meaning given to it in section 28C(7) of the 1977 Act prior to its repeal by 2003 Act.

⁽²⁾ S.I. 1998/2222.

(3) Where a complaint falls to be investigated by a Local Health Board as a consequence of paragraph (2), the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners.

Complaints relating to personal dental services made after 31 March 2006

22.—(1) Subject to paragraph (2), the complaints procedure established and operated by a succeeding contractor—

- (a) under the terms of its personal dental services agreement which gives effect to paragraph 47 of Schedule 3 to the PDS Agreements Regulations; or
- (b) under the terms of its general dental services contract which gives effect to paragraph 47 of Schedule 3 to the GDS Contracts Regulations,

will apply to any complaint which a patient or former patient of the relevant pilot scheme provider to whom it is a succeeding contractor could have made (but did not make) on or before 31 March 2006 under the pilot scheme agreement as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the agreement or, as the case may be, the contract.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Local Health Board in whose area the personal dental services were provided.

(3) Where a complaint falls to be investigated by a Local Health Board as a consequence of paragraph (2), the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners.

Patient information leaflet

23.—(1) This article applies where a relevant pilot scheme provider had produced a pilot leaflet in accordance with the terms in the pilot scheme agreement which give effect to the requirements in the PDS Directions and that leaflet was, on 31 March 2006, available to patients.

(2) Subject to paragraph (3), the patient information leaflet made available to patients on or after 1 April 2006 by the succeeding contractor need not, until 1 August 2006, include all the information specified in the terms of—

- (a) the personal dental services agreement which give effect to Schedule 4 to the PDS Agreements Regulations; or
- (b) the general dental services contract which give effect to Schedule 4 to the GDS Contracts Regulations.

(3) The succeeding contractor must from the date of the commencement of services under the personal dental services agreement or the general dental services contract make available to patients in written form the information specified in paragraph (4) together with the pilot leaflet referred to in paragraph (1).

(4) The information referred to in paragraph (3) is information regarding—

- (a) the services available under the personal dental services agreement or the general dental services contract;
- (b) the normal surgery days and hours of the practice;
- (c) the arrangement for dental services for the days and hours that fall outside normal surgery days and hours (whether or not provided by the contractor) and how the patient may contact such services;
- (d) if the services referred to in sub-paragraph (c) are not provided by the contractor, the fact that the Local Health Board referred to in sub-paragraph (g) is responsible for commissioning the services;
- (e) the telephone number of NHS Direct and details of NHS Direct online;
- (f) how patients may make a complaint or comment on the provision of services; and

- (g) the name, postal and website address and telephone number of the Local Health Board with whom the contractor is a party to the agreement or contract.

Overpayments under a pilot scheme

24.—(1) Where, on or before 31 March 2006, a pilot scheme provider has admitted an overpayment drawn to its attention by the Local Health Board or the Board but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 31 March 2006, will be recoverable by the Local Health Board in accordance with the arrangements for the recovery of overpayments provided for in the pilot scheme agreement as it had effect on 31 March 2006, and—

- (a) the terms of the pilot scheme agreement will apply for the purposes of the recovery of such an overpayment; and
- (b) the amount of the overpayment will be treated as a debt owed by that pilot scheme provider to the Local Health Board.

(2) Where the Local Health Board considers that a payment had been made to a pilot scheme provider under the terms of the pilot scheme agreement when it was not due and that alleged overpayment has not been drawn to the pilot scheme provider's attention by the Board or the Local Health Board on or before 31 March 2006, that Local Health Board may draw the overpayment to the attention of the pilot scheme provider by notice, and—

- (a) where the overpayment is admitted by the pilot scheme provider, the Local Health Board may recover the amount overpaid from it as a civil debt; and
- (b) where the overpayment is not admitted by the pilot scheme provider, the arrangements for the recovery of disputed overpayments as provided for in the pilot scheme agreement as it had effect on 31 March 2006 will continue to apply in respect of the recovery of the amount of the possible overpayment.

(3) Where, before 1 April 2006, a Local Health Board has drawn a possible overpayment to the attention of the pilot scheme provider and the overpayment has not been admitted by the pilot scheme provider, the arrangements for the recovery of disputed overpayments as provided for in the pilot scheme agreement as it had effect on 31 March 2006 will continue to apply in respect of the recovery of the amount of the possible overpayment.

(4) For the purposes of the application of this article, a reference to the Board in a pilot scheme agreement will be read as including a reference to the NHS Business Services Authority.

(5) This article is without prejudice to any arrangement for the recovery of dental charges set out in directions under sections 28E(3A) and 28N of the 1977 Act.

Remuneration of pilot scheme providers

25.—(1) Subject to paragraphs (2) and (3), claims for remuneration under the terms of a pilot scheme agreement may still be made and acceded to in accordance with a pilot scheme agreement, where a pilot scheme provider is entitled to a payment—

- (a) under the agreement; or
- (b) as a consequence of the termination of the agreement,

and the claim is made or deemed to have been made within any period stipulated in the pilot scheme agreement as being the period during which a claim for payment is to be made.

(2) In a case where no period is specified for the making of a claim for payment in the pilot scheme agreement or a claim is made outside the specified period, the Local Health Board with which the pilot scheme provider was a party to the agreement (or, where appropriate, the NHS Business Services Authority acting on its behalf) may agree to determine such claims for a period up to six months from the date on which the circumstances which gave rise to the claim first arose.

(3) This article is without prejudice to any arrangements for the recovery of dental charges set out in directions under sections 28E(3A) and 28N of the 1977 Act.

Violent patients

26. Where—

- (a) on or before 31 March 2006, a pilot patient (within the meaning of direction 2 of the PDS Directions) has committed an act of violence in the circumstances specified in the pilot scheme agreement which give effect to direction 8(2)(a) of the PDS Directions;
- (b) the pilot scheme provider has notified the Local Health Board that he or she wishes the provision of personal dental services for that pilot patient to be terminated immediately; and
- (c) the Local Health Board has not informed the person concerned on or before 31 March 2006 that the pilot scheme provider wishes the provision of personal dental services for that pilot patient to be terminated,

the Local Health Board will take such steps to inform that person that the relevant pilot scheme provider does not wish to provide, on or after 1 April 2006, primary dental services to that person under the personal dental services agreement or the general dental services contract.

Repair or replacement of restorations

27. Where—

- (a) on or before 31 March 2006, a restoration is provided in the course of performing personal dental services by a relevant pilot scheme provider; and
- (b) on or after 1 April 2006, the restoration requires repair or replacement which that provider would have been required to repair or replace under the terms in the pilot scheme agreement which gave effect to direction 11 of the PDS Directions,

the succeeding contractor will repair or replace the restoration in accordance with the terms of the personal dental services agreement which give effect to paragraph 12 of Schedule 3 to the PDS Agreements Regulations or the terms of the general dental services contract which give effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations.

Provision of information

28.—(1) Where—

- (a) a course of treatment is completed by a pilot scheme provider on or before 31 March 2006; and
- (b) the period in which the information in respect of that course of treatment is to be submitted to the Board has not expired on 1 April 2006,

the period in which that information is to be submitted and the manner of submission of that information is the period and manner which is specified in the terms of the pilot scheme agreement which give effect to paragraph 12 of Schedule 1 to the PDS Directions.

(2) Where paragraph (1) applies, the succeeding contractor will provide such information as is reasonably required—

- (a) as may have been requested by the Board on or before 31 March 2006, to the NHS Business Services Authority; or
- (b) as requested by the NHS Business Services Authority on or after 1 April 2006.

(3) For the purposes of the application of paragraphs (1) and (2), any reference to the Board in a pilot scheme agreement will be read as including a reference to the NHS Business Services Authority.

Records

29. A pilot scheme provider will continue to keep records in respect of services provided under the pilot scheme agreement in accordance with the terms of that agreement and such terms will continue to apply to such records until 1 April 2008.

Disputes

30.—(1) Where a dispute in respect of a pilot scheme agreement is pending on 31 March 2006 under the NHS dispute resolution procedure or a procedure specified in the terms of the pilot scheme agreement that gives effect to direction 19 of, and Schedule 3 to, the PDS Directions, the adjudicator will proceed to determine the dispute in accordance with the dispute resolution procedure that had effect on 31 March 2006 in respect of that dispute.

(2) In this article, the expression “adjudicator” means—

- (a) in the case of a pilot scheme agreement that gives effect to the procedure specified in Schedule 3 to the PDS Directions, the person appointed by the National Assembly for Wales; and
- (b) in the case of a pilot scheme provider who is a health service body, the National Assembly for Wales or a person appointed by the National Assembly for Wales under section 4(5) of the National Health Service and Community Care Act 1990(1).

PART 4

TRANSITIONAL ARRANGEMENTS: THE NATIONAL HEALTH SERVICE (SERVICE COMMITTEES AND TRIBUNAL) REGULATIONS 1992

Interpretation

31.—(1) In this Part—

“the Service Committees Regulations” means the National Health Service (Service Committees and Tribunal) Regulations 1992(2);

“amendments” in respect of any regulation or regulations in the Service Committees Regulations means amendments made to that regulation or those regulations by paragraph 3 of Schedule 1 to this Order;

“appropriate LHB” has the same meaning as “appropriate Health Authority” in the Service Committees Regulations;

“contracting LHB” means a Local Health Board that has entered into—

- (a) a general dental services contract with—
 - (i) a dentist who is the subject of the allegation,
 - (ii) a partnership, where a dentist who is the subject of the allegation is a partner, or
 - (iii) a dental corporation, where a dentist who is the subject of the allegation is a director, chief executive or secretary of that corporation; or
- (b) a personal dental services agreement with—
 - (i) a dentist who is the subject of the allegation, or
 - (ii) a qualifying body, where a dentist who is the subject of the allegation is a director, chief executive or secretary of that body;

“dentist” has the same meaning as in the Service Committees Regulations;

(1) 1990 c.19.
(2) S.I. 1992/664.

“the Performers List LHB” means the Local Health Board in whose dental performers list the dentist’s name appears on 1 April 2006;

“Performers Lists Regulations” means the National Health Service (Performers Lists) (Wales) Regulations 2004(1);

“relevant contractor” means a party to a general dental services contract or personal dental services agreement with a contracting LHB, where that contractor is—

- (a) a dentist who is the subject of the allegation;
- (b) a partnership, where a dentist who is or was the subject of the allegation is a partner in that partnership; or
- (c) a dental corporation or qualifying body, where a dentist who is or was the subject of the allegation is a director, chief executive or secretary of that corporation or body; and

“relevant date” means 1 April 2006.

(2) Unless the context otherwise requires, any reference in this Part to—

- (a) a numbered regulation is to the regulation bearing that number in the Service Committees Regulations; and
- (b) a numbered Schedule is to the Schedule to the Service Committees Regulations bearing that number.

Cases where no decision has been made before the relevant date as to whether disciplinary action should be taken (regulation 4)

32.—(1) Where, before the relevant date, or on or after the relevant date in respect of a matter that occurred before the relevant date, a Local Health Board receives, or has received, information that could amount to an allegation that a dentist had failed to comply with his or her terms of service and—

- (a) that Board, or its reference committee, has not taken a final decision pursuant to regulation 4(1) before the relevant date as to whether it will take no action or take one or both of the courses of action set out in regulation 4(2); and
- (b) any time limit specified in regulation 6 has not expired,

paragraph (2) will apply.

(2) Where this paragraph applies, the Local Health Board will—

- (a) if it is the appropriate LHB, continue to be the appropriate LHB for the purposes of the Service Committees Regulations, and consider and take such action as it sees fit pursuant to the Service Committees Regulations, subject to article 35, as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect; or
- (b) if it is not the appropriate LHB, forward the information to that Board as soon as is reasonably practicable, and that Board will consider the information received and take such action as it sees fit pursuant to the Service Committees Regulations, subject to the time limits specified in the Service Committees Regulations, and article 35, as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect.

(3) If the appropriate LHB, or its reference committee, decides, pursuant to paragraph (2)(a) or (2)(b), to refer the matter to the discipline committee of another Local Health Board (B) in accordance with regulation 4(2)(a) or (7)—

- (a) that Local Health Board (B) will investigate the matter and report to the appropriate LHB as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect; and
- (b) the appropriate LHB will be entitled, subject to article 35, to take any action it could have taken pursuant to the Service Committees Regulations as if those amendments had not taken effect.

(1) S.I. 2004/1020 (W.117).

Referrals to investigating discipline committees before the relevant date (regulation 5)

33. Where a Local Health Board (A) has, before the relevant date, referred a matter in respect of a dentist to another Local Health Board (B) in accordance with regulation 4(2)(a) or (7) and—

- (a) that matter has not been finally determined by the discipline committee of that Local Health Board (B) before the relevant date—
 - (i) the discipline committee of that Local Health Board (B) will investigate the matter and report to the Local Health Board (A) as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect, and
 - (ii) the Local Health Board (A) will be entitled to take any action it could have taken pursuant to the Service Committees Regulations as if those amendments had not taken effect, subject to article 35; or
- (b) that Local Health Board (A) has received the report of the discipline committee of the Local Health Board (B) but has not yet determined what (if any) action to take as a result of the report, the Local Health Board (A) will be entitled to take any action it could have taken pursuant to the Service Committees Regulations as if the amendments to regulations 2 to 8 had not taken effect, subject to article 35.

Determination of a Local Health Board or the National Assembly for Wales made before the relevant date (regulations 8, 9, 10 and 11)

34.—(1) Where, before the relevant date, a Local Health Board (or where relevant, the National Assembly for Wales) has determined pursuant to regulation 8(5)(a), regulation 9(3) or regulation 11 that an amount should be recovered from the dentist, in so far as any of that amount has not been recovered before the relevant date, it will continue to be recoverable by the Local Health Board that was the appropriate LHB for the purposes of the Service Committees Regulations in respect of that matter, and it will be treated as a debt owed by that dentist to that Board.

(2) Where a contracting LHB has record of, or receives notification of, an adverse determination made before the relevant date pursuant to regulation 8, 9, 10, 11 or 12 in respect of a dentist (where, in the case of a determination under regulation 8, such a determination was not overturned on appeal), paragraph (3) will apply without prejudice to any other rights the contracting LHB may have to take action against the relevant contractor pursuant to any term of the general dental services contract or personal dental services agreement.

(3) Where this paragraph applies, the contracting LHB—

- (a) may take into account that adverse determination in relation to a relevant contractor if it is considering, pursuant to a term of the general dental services contract that gives effect to paragraph 73(7) of Schedule 3 to the GDS Contracts Regulations or the personal dental services agreement that gives effect to paragraph 71(7) of Schedule 3 to the PDS Agreements Regulations, whether the cumulative effect of breaches under that contract or agreement is such that to allow the contract or agreement to continue would be prejudicial to the efficiency of the services provided under that contract or agreement; but
- (b) will not, pursuant to sub-paragraph (a), take into account any adverse determination that was made that occurred more than 6 years prior to the date upon which the contracting LHB is considering terminating the general dental services contract or personal dental services agreement.

(4) Where a Performers List LHB has record of, or receives notification of, an adverse determination pursuant to regulation 8, 9, 10, 11 or 12 made before the relevant date in respect of a dentist (where, in the case of a determination under regulation 8, such a determination was not overturned on appeal) it may take that determination into account in determining what (if any) action it should take in respect of that dentist pursuant to its powers under the Performers Lists Regulations.

Determination of a Local Health Board made on or after the relevant date (regulation 8)

35.—(1) Where, on or after the relevant date, an appropriate LHB is determining what (if any) action to take pursuant to regulation 8 in accordance with provision made in this Part, it will make such a determination in accordance with such limitation and modifications to that regulation as are specified in this article.

(2) The appropriate LHB may—

- (a) pursuant to regulation 8(1)(c)(i), determine that no further action should be taken;
- (b) pursuant to regulation 8(5)(a), determine that an amount will be recovered from the dentist;
- (c) pursuant to regulation 8(5)(b), determine that it would have determined that the dentist should be required to submit estimates for the prior approval of the Board in respect of such treatment and during such period as the appropriate LHB specifies; or
- (d) pursuant to regulation 8(5)(c), determine that it would have warned the dentist to comply more closely with his or her terms of service in future, if those terms of service were still applicable,

and if it makes any one or more of the decisions specified in sub-paragraphs (b) to (d), it will, after the period specified in regulation 8(11)(a) or (b) (as applicable) has expired, notify in writing the contracting LHB and the Performers List LHB (if any) of its decision and the reasons for it, if either one is a different Local Health Board to the appropriate LHB.

(3) Where, pursuant to paragraph (2)(b), the appropriate LHB determines that an amount should be recovered from the dentist, regulation 8(9) will not apply and that amount will be recoverable by the appropriate LHB and it will be treated as a debt owed by that dentist to the appropriate LHB.

(4) Where the appropriate LHB has notified the contracting LHB that it has made any of the determinations specified in paragraph (2)(b) to (2)(d), or where the appropriate LHB is the contracting LHB, paragraph (5) will apply without prejudice to any other rights the contracting LHB may have to take action against the relevant contractor pursuant to any term of the general dental services contract or personal dental services agreement.

(5) Where this paragraph applies, the contracting LHB—

- (a) may, in relation to a relevant contractor, take into account the determination of the appropriate LHB if it is considering, pursuant to a term of the general dental services contract that gives effect to paragraph 73(7) of Schedule 3 to the GDS Contracts Regulations or the personal dental services agreement that gives effect to paragraph 71(7) of Schedule 3 to the PDS Agreements Regulations, whether the cumulative effect of breaches under that contract or agreement is such that to allow the contract or agreement to continue would be prejudicial to the efficiency of the services provided under that contract or agreement; but
- (b) will not, pursuant to sub-paragraph (a), take into account any determination of an appropriate LHB that was made more than 6 years prior to the date upon which the contracting LHB is considering terminating the general dental services contract or personal dental services agreement.

(6) Where—

- (a) a Performers List LHB has received notification from an appropriate LHB pursuant to paragraph (2); or
- (e) where an appropriate LHB that has taken a decision pursuant to paragraph (2) is also the Performers List LHB,

it will consider what (if any) action it should take in respect of that dentist pursuant to its powers under the Performers Lists Regulations.

Appeals to the National Assembly for Wales against determinations of Local Health Boards (regulations 9, 10 and 11)

36.—(1) Where—

- (a) a dentist has appealed against a determination of a Local Health Board in accordance with regulation 9 before the relevant date, but that appeal has not been finally determined before that date; or
- (b) in respect of a determination made by a Local Health Board in accordance with regulation 8 before the relevant date, the time limit specified in regulation 9(2) for appealing that determination has not expired before the relevant date, and the dentist serves a notice of appeal on or after the relevant date but within the time limit specified in regulation 9(2),

that appeal will be determined pursuant to regulations 9, 10, 11 and 12, as if the amendments to those regulations and Schedule 5 had not taken effect.

(2) Where an appropriate LHB has made a determination in respect of a dentist on or after the relevant date pursuant to this Part—

- (a) the dentist will be entitled to appeal against that determination in accordance with regulation 9; and
- (b) that appeal will be determined pursuant to regulations 9, 10, 11 and 12,

as if the amendments to those regulations and to Schedule 5 had not taken effect.

(3) Where, on or after the relevant date, the National Assembly for Wales is determining pursuant to regulation 9, 10, 11 or 12 what (if any) action to take in respect of a dentist, it will make a determination pursuant to those regulations as if the amendments to those regulations and to Schedule 5 had not taken effect and that determination will have effect in accordance with this article.

(4) If, in accordance with paragraph (3), the National Assembly for Wales determines pursuant to—

- (a) regulation 9(3)(d), that there has been an overpayment and, if so, what amount;
- (b) regulation 8(5)(a) and 9(3) or 11, that an amount will be recovered from the dentist;
- (c) regulation 8(5)(c) and 9(3), that it would have warned the dentist to comply more closely with his or her terms of service in future, if those terms of service were still applicable; or
- (d) regulation 12, that it would have imposed a prior approval requirement on the dentist,

it will, in addition to the persons specified in regulation 10(14), notify the Local Health Board specified in paragraph (5).

(5) The National Assembly for Wales will, pursuant to paragraph (4)(a) to (4)(d), notify the contracting LHB and the Performers List LHB (if any) of its determination if those Local Health Boards are different to the Local Health Board referred to in regulation 10(14).

(6) Where, pursuant to regulation 8(5)(a), 9(3) or 11, the National Assembly for Wales has determined that an amount will be recovered from a dentist it will direct the appropriate LHB, to recover that amount from the dentist and that amount will be a debt owed to that appropriate LHB.

(7) Where, pursuant to paragraph (5), the National Assembly for Wales has notified the contracting LHB that it has taken any of the decisions specified in paragraph (4)(a) to (4)(d), whether or not the contracting LHB is also the appropriate LHB, paragraph (8) will apply without prejudice to any other right the contracting LHB may have to take action against the relevant contractor pursuant to any term of the general dental services contract or personal dental services agreement.

(8) Where this paragraph applies, the contracting LHB may, in relation to a relevant contractor, take into account the determination of the National Assembly for Wales if it is considering, pursuant to a term of the general dental services contract that gives effect to paragraph 73(7) of Schedule 3 to the GDS Contracts Regulations or the personal dental services agreement that gives effect to paragraph 71(7) of Schedule 3 to the PDS Agreements Regulations whether the cumulative effect of breaches under that contract or agreement is such that to allow the contract or

agreement to continue would be prejudicial to the efficiency of the services provided under that contract or agreement.

(9) The contracting LHB will not, pursuant to paragraph (8), take into account any notification received that relates to a determination that was made by the National Assembly for Wales that occurred more than 6 years prior to the date upon which the contracting LHB is considering the matter pursuant to paragraph (8).

(10) Where a Performers List LHB has received notification from the National Assembly for Wales pursuant to paragraph (4) or (5), whether or not the Performers List LHB is also the appropriate LHB, it will consider what (if any) action it should take in respect of that dentist pursuant to its powers under the Performers Lists Regulations.

Functions of Local Dental Committees

37. Where—

- (a) a Local Dental Committee has, before the relevant date had any matter referred to it for its consideration that it had not finally determined before the relevant date; and
- (b) pursuant to this Part, that matter is to be determined by the Local Dental Committee on or after the relevant date,

the Local Dental Committee that is recognised by a Local Health Board pursuant to section 45B of the 1977 Act⁽¹⁾ (local dental committees) will be the Committee to consider or determine the matter.

PART 5

TRANSITIONAL PROVISIONS IN RESPECT OF GENERAL DENTAL SERVICES AND PERSONAL DENTAL SERVICES

Functions in respect of general dental services

38.—(1) Subject to paragraph (3), the functions of the Board under the 1992 Regulations which are specified in paragraph (2) will be exercisable by the NHS Business Services Authority in respect of general dental services provided before 1 April 2006.

(2) The specified functions referred to in paragraph (1) are—

- (a) the approval and making of payments under regulation 20;
- (b) the recovery of overpayments under regulation 22;
- (c) the making of any payments under regulation 26(7);
- (d) the consideration of overpayments, notification of overpayments and recovery of such overpayments under regulation 28;
- (e) the payments to dentists suspended by Local Health Boards under regulation 28B;
- (f) complying with the request from the Local Health Board for a written statement in accordance with regulation 30A(5) of the 1992 Regulations and any steps in the appeal which the Board may have taken before 1 April 2006; and
- (g) the authority to request any records, forms, radiographs, photographs and study models under paragraph 25(3) of Schedule 1 to the 1992 Regulations.

(3) Notwithstanding the revocation of the 1992 Regulations, for the purposes of the NHS Business Services Authority exercising the functions of the Board, the provisions specified in paragraph (2) will continue to have effect as on 31 March 2006 and references to the Board in those provisions will be read as a reference to the NHS Business Services Authority.

⁽¹⁾ Section 45B is inserted into the 1977 Act by the 2003 Act, Schedule 11, paragraph 23.

Appeals from decisions of the Board

39.—(1) Notwithstanding the revocation of the 1992 Regulations and subject to the following paragraphs, regulation 30A of the 1992 Regulations⁽¹⁾ will continue to have effect in respect—

- (a) of a person who is aggrieved by a decision of—
 - (i) the Board made before 1 April 2006, or
 - (ii) the NHS Business Services Authority made after 31 March 2006,in respect of the treatment or intended treatment of a patient as part of general dental services before 1 April 2006;
- (b) a dentist who is aggrieved by a decision of—
 - (i) the Board made before 1 April 2006, or
 - (ii) the NHS Business Services Authority made after 31 March 2006,concerning fees payable to him or her in respect of the provision or intended provision of general dental services before 1 April 2006.

(2) In a case where paragraph (1) applies—

- (a) the reference in regulation 30A(1) to (3), (6), (10) and (11) of the 1992 Regulations to the Board will be read as if it were a reference to the Board or the NHS Business Services Authority; and
- (b) the reference in regulation 30A(5), (8), (9) and (14) of the 1992 Regulations to the Board will be read as if it were a reference to the NHS Business Services Authority.

Local Dental Committees in respect of appeals

40. Where—

- (a) a Local Dental Committee is to be consulted after 1 April 2006 in accordance with regulation 30A(6)(a) of the 1992 Regulations; or
- (b) a Local Dental Committee is to make a nomination to a panel after 1 April 2006 in accordance with regulation 30A(7) of the 1992 Regulations,

the Local Dental Committee that is recognised by a Local Health Board pursuant to section 45B of the 1977 Act will be the Committee to be consulted or to make the nomination for the purpose of the continuing application of regulation 30A(6) and (7) of the 1992 Regulations.

Functions of the Board in respect of personal dental services

41.—(1) In respect of the provision of personal dental services on or before 31 March 2006, the functions of the Board which are exercisable as a consequence of—

- (a) regulation 2 (information, statistics, reports etc);
- (b) regulation 4 (overpayments); or
- (c) regulation 5 (superannuation),

of the Dental Practice Board (Personal Dental Services) Regulations 1998⁽²⁾ and article 28, notwithstanding the revocation of those Regulations, are to be exercised by the NHS Business Services Authority in accordance with those Regulations and the Directions to the Dental Practice Board Concerning Functions relating to Personal Dental Services Pilot Schemes⁽³⁾ as they had effect on 31 March 2006 and as if the reference in those Regulations and Directions to the Board were a reference to the NHS Business Services Authority.

⁽¹⁾ Regulation 30A is inserted by regulation 4 of S.I. 1996/704.

⁽²⁾ S.I 1998/2223.

⁽³⁾ The Directions to the Dental Practice Board Concerning Functions Relating To Personal Dental Services Pilot Schemes were made on 11th September 1998.

(2) For the purposes of paragraph (1), regulation 6 of the Dental Practice Board (Personal Dental Services) Regulations 1998 (monitoring dental treatment) will, notwithstanding the revocation of those Regulations, continue to have effect in respect of treatment or a description of treatment carried out on or before 31 March 2006 as if the reference to the Board in that regulation were a reference to the NHS Business Services Authority.

(3) The ancillary functions which relate to the functions specified in paragraph (1) and which are referred to in, or are a consequence of, directions 14(b), 17, 23(a) and 25(b) of, and paragraph 12 of Schedule 1 to, the PDS Directions will be exercisable by the NHS Business Services Authority.

(4) In relation to the terms of a pilot scheme agreement which give effect to the directions mentioned in paragraph (3), any reference to the Board in that agreement will be read as a reference to the NHS Business Services Authority for the purposes of the exercise of functions by that Authority.

PART 6

MISCELLANEOUS TRANSITIONAL, CONSEQUENTIAL AND REVOCATIONS PROVISIONS

Transitional provision in relation to the Family Health Services Appeal Authority (Procedure) Rules 2001

42. Notwithstanding the amendments made to the Family Health Services Appeal Authority (Procedure) Rules 2001(1) by paragraph 5 of Schedule 1, those Rules will, in relation to any decision of a Local Health Board made before 1 April 2006, continue to apply as they had effect on 31 March 2006 and as if those amendments had not been made.

Amendment to the Transitional Order

43. For articles 4(3)(b) and 5(3)(b) (entitlement to a general dental services contract) and 16(2)(b) and 17(2)(b) (entitlement to a personal dental services agreement) of the Transitional Order, there will be substituted—

“(b) on maternity or adoption leave and—

- (i) is or has been, for all or part of that leave, in receipt of payments in respect of the leave by virtue of Determination VI of the SDR, and
- (ii) the duration of that leave on that date does not exceed 52 weeks;

(ba) on paternity leave and is, on that date, in receipt of payments in respect of Determination VI of the SDR;”.

Minor and consequential amendments

44. The provisions listed in Schedule 1 are amended as there specified.

Revocations

45. The provisions listed in Schedule 2 are revoked to the extent there specified.

(1) S.I. 2001/3750.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽¹⁾.

Date

The Presiding Officer of the National Assembly

⁽¹⁾ 1998 c.38.

MINOR AND CONSEQUENTIAL AMENDMENTS

The National Health Service Trusts (Membership and Procedure) Regulations 1990

1.—(1) The National Health Service Trusts (Membership and Procedure) Regulations 1990(1) will be amended as provided in this paragraph.

(2) In regulation 1 (citation, commencement and interpretation) omit the definition of “general dental practitioner”.

(3) In regulation 11 (disqualification for appointment of chairman and non-executive directors), in paragraph (1)(f)—

- (a) omit paragraph (i);
- (b) in paragraph (ii), after “primary medical services” insert “or primary dental services”; and
- (c) in paragraph (iii)—
 - (i) after “a company that” insert “or a director of a body corporate that”, and
 - (ii) after “primary medical services” insert “or primary dental services”.

The National Health Service (Service Committees and Tribunal) Regulations 1992

2.—(1) Subject to articles 31 to 37, the National Health Service (Service Committees and Tribunal) Regulations 1992(2) will be amended in accordance with this paragraph.

(2) In regulation 2 (interpretation)—

- (a) omit the definitions of “the 1997 Act”, “assistant”, “the Board”, “Dental Advisory Committee”, “dental discipline committee”, “dental list”, “dental officer”, “Dental Regulations”, “dentists’ panel”, “deputy”, “estimate”, “prior approval requirement”, “salaried dentist”, “Statement of Dental Remuneration” and “treatment”;
- (b) for the definition of “Local Dental Committee”, “Local Optical Committee” and “Local Pharmaceutical Committee” substitute ““Local Optical Committee” and “Local Pharmaceutical Committee” mean the committees of those names recognised by the Local Health Board in relation to its locality under section 44 of the Act, and “Local Representative Committee” means either of those committees”;
- (c) in the definition of—
 - (i) “Part II service”, omit the words “general dental services”;
 - (ii) “practitioner”, for the words “a dentist”, substitute “an”;
 - (iii) “relevant local representative committee”, omit paragraph (b), and
 - (iv) “terms of service”, omit paragraph (b); and
- (d) in paragraph (4), omit sub-paragraph (a).

(3) In regulation 3 (establishment of committees), omit paragraph (1)(b).

(4) In regulation 4 (provisions relating to the start of disciplinary proceedings) in paragraph (5)(a), omit “dental”.

(5) In regulation 5 (referral to investigating discipline committee), omit paragraph (3)(b).

(6) In regulation 6 (time limits), omit paragraph (3)(b), (4) and (5).

(7) In regulation 8 (determination of appropriate Health Authority or Local Health Board)—

(1) S.I. 1990/2024.

(2) S.I. 1992/664.

- (a) omit paragraph (5)(b) and (9); and
 - (b) in paragraphs (8) and (11), omit “, (b)”.
- (8) In regulation 9 (appeal to the Secretary of State)—
- (a) in paragraph (1)(b), (3)(c) and (4)(b), omit “, (b)”;
 - (b) in paragraph (3)(c) and (4)(b), for “regulations 11 or 12” substitute “regulation 11”; and
 - (c) in paragraph (5), for “(5)(a), (b)”, substitute “(5)(a)”.
- (9) In regulation 10 (procedure on appeal)—
- (a) in paragraph (5), for “(5)(a), (b)”, substitute “(5)(a)”;
 - (b) in paragraph (6), for “paragraphs (7) and (8)”, substitute “paragraph (7)”; and
 - (c) omit paragraphs (7)(b) and (8).
- (10) In regulation 11 (recovery of amounts from practitioners following appeal)—
- (a) omit paragraphs (2), (3), (4) and (8); and
 - (b) in paragraph (7), omit “, (b)”.
- (11) Omit regulation 12 (prior approval in dental cases).
- (12) In regulation 20 (power of Local Representative Committees to consider complaints), omit paragraph (2).
- (13) In Schedule 2 (constitution of discipline committees)—
- (a) in paragraph 2—
 - (i) omit sub-paragraph (1)(b)(iii) and (4)(b), and
 - (ii) in sub-paragraph (2), for “(iii) to (v)” substitute “(iv) or (v)”;
 - (b) in paragraph 8, omit sub-paragraph (c)(ii).
- (14) In Schedule 4 (procedure for investigation by discipline committees)—
- (a) omit paragraph 2(1)(b) (disciplinary matters in relation to deputies); and
 - (b) in paragraph 9, omit sub-paragraph (b)(ii).
- (15) In Schedule 5 (advisory committees), omit paragraph 2 and Part 3.

The Health Authorities (Membership and Procedure) Regulations 1996

3.—(1) The Health Authorities (Membership and Procedure) Regulations 1996⁽¹⁾ will be amended as provided in this paragraph.

- (2) In regulation 1 (citation, commencement and interpretation)—
- (a) in the definition of “discipline committee” for “a dental” substitute “an”;
 - (b) in the definition of “Part II services” omit “general dental services,”; and
 - (c) in the definition of “service committee” for “a dental” substitute “an”.
- (3) In regulation 10 (disqualification for appointment), in paragraph (5)(b), after “primary medical services” insert “or primary dental services”.
- (4) In regulation 14 (appointment of committees and sub-committees), in paragraph (3), after “primary medical services” insert “or primary dental services”.
- (5) In regulation 16 (disability of chairman and members in proceedings on account of pecuniary interest), in paragraph (6)(b), after “primary medical services” insert “or primary dental services”.

⁽¹⁾ S.I. 1996/707.

The National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001

4. In the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001(1), in regulation 2(1) (interpretation), in the definition of “terms of service” omit “general dental services”.

The Family Health Services Appeal Authority (Procedure) Rules 2001

5. In rule 2 (interpretation) of the Family Health Services Appeal Authority (Procedure) Rules 2001(2), in the definition of “FHS Regulations”—

(a) after paragraph (a), insert—

“(ba) sections 28M and 126(4) of the 1977 Act (persons eligible to enter into GDS contracts),”;

(b) omit paragraphs (b), (h) and (i); and

(c) in paragraph (g), omit “general medical services, general dental services”.

The National Health Service (Pharmaceutical Services) Regulations 1992

6. In the National Health Service (Pharmaceutical Services) Regulations 1992(3) (interpretation)—

(a) in regulation 2(1), for the definition of “Local Dental Committee” substitute—

““Local Dental Committee” means a committee recognised under section 45B of the Act (Local Dental Committees);”.

SCHEDULE 2

Article 45

REVOCATIONS

	<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
1.	The National Health Service (General Dental Services) (Miscellaneous Amendments) Regulations 1990	S.I. 1990/1638	The whole Regulations
2.	The National Health Service (General Dental Services) Regulations 1992	S.I. 1992/661	The whole Regulations
3.	The National Health Service (General Dental Services) Amendment Regulations 1992	S.I. 1992/1509	The whole Regulations
4.	The National Health Service (General Dental Services) Amendment Regulations 1993	S.I. 1993/2209	The whole Regulations
5.	The National Health Service (General Dental Services) Amendment (No.2) Regulations 1993	S.I. 1993/3172	The whole Regulations
6.	The National Health Service (General Dental Services) Amendment Regulations 1995	S.I. 1995/3092	The whole Regulations
7.	The National Health Service (General Dental Services) Amendment Regulations 1996	S.I. 1996/704	The whole Regulations
8.	The National Health Service (General Dental Services) Amendment (No.2) Regulations 1996	S.I. 1996/2051	The whole Regulations

(1) S.I. 2001/1358.

(2) S.I. 2001/3750.

(3) S.I. 1992/662.

9.	The National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997	S.I. 1997/2289	The whole Regulations
10.	The National Health Service (Pilot Schemes – Health Service Bodies) Regulations 1997	S.I. 1997/2929	The whole Regulations
11.	The National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Amendment Regulations 1998	S.I. 1998/2224	The whole Regulations
12.	The National Health Service (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations 1998	S.I. 1998/646	The whole Regulations
13.	The National Health Service (Pilot Schemes: Financial Assistance for Preparatory Work) Regulations 1998	S.I. 1998/1330	The whole Regulations
14.	The National Health Service (General Dental Services) Amendment Regulations 1998	S.I. 1998/1648	The whole Regulations
15.	The National Health Service (Choice of Dental Practitioner) Regulations 1998	S.I. 1998/2222	The whole Regulations
16.	The National Health Service (Pilot Schemes for Personal Dental Services: Miscellaneous Provisions and Consequential Amendments) Regulations 1998	S.I. 1998/2224	The whole Regulations
17.	The National Health Service (General Dental Services) Amendment (Wales) Regulations 2000	S.I. 2000/3118 (W.197)	The whole Regulations
18.	The National Health Service (General Dental Services) (Amendment) (Wales) Regulations 2001	S.I. 2001/2133 (W.148)	The whole Regulations
19.	The National Health Service (General Dental Services) Amendment (No.5) Regulations 2001	S.I. 2001/2421	The whole Regulations
20.	The National Health Service (General Dental Services) (Amendment) (No.2) (Wales) Regulations 2001	S.I. 2001/2706 (W.226)	The whole Regulations
21.	The National Health Service (General Dental Services) (Amendment) (No.3) (Wales) Regulations 2001	S.I. 2001/4000 (W.328)	The whole Regulations
22.	The National Health Service (General Dental Services) (Amendment) (Wales) Regulations 2002	S.I. 2002/918 (W.106)	The whole Regulations
23.	The National Health Service (General Dental Services) (Amendment) (Wales) (No. 2) Regulations 2002	S.I. 2002/1881 (W.190)	The whole Regulations
24.	The National Health Service (General Dental Services) (Amendment) (Wales) Regulations 2003 (W.93)	S.I. 2003/782 (W.93)	The whole Regulations
25.	The National Health Service (General Dental Services) (Amendment) (No.2) (Wales) Regulations 2003	S.I. 2003/1976 (W.215)	The whole Regulations